

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LUIS YLLANES,

Plaintiff,

-against-

LORRAINE SCHWARTZ, INC.,

Defendant.

Case No. 1:20-cv-3963 (JSR)

DECLARATION OF
LAURA O'BOYLE IN SUPPORT OF
DEFENDANT'S MOTION FOR AN
ORDER REQUIRING PLAINTIFF TO
POST A BOND

I, Laura K. O'Boyle, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney duly licensed to practice law in the State of New York and am a member of the bar of this Court. I am a partner at the law firm of Gibson, Dunn & Crutcher LLP ("Gibson Dunn"), counsel to Defendant Lorraine E. Schwartz, Inc. ("Defendant") in the above-captioned action.

2. I submit this declaration in support of Defendant's motion for an order requiring Plaintiff Luis Yllanes ("Plaintiff") to post a bond as security for costs pursuant to Rule 54.2 of this Court's Local Civil Rules, dated August 26, 2020.

3. Plaintiff filed this complaint for copyright infringement on May 21, 2020 (the "Lawsuit").

4. Plaintiff did not demand that the subject photographs be removed from Defendant's Instagram account or request payment of a reasonable license fee from Defendant prior to filing the Lawsuit.

5. Defendant promptly removed the subject photographs from its Instagram account after receiving notice of the Lawsuit.

6. On July 2, 2020, Plaintiff produced, as part of his Rule 26(a) disclosures, a document summarizing the license fees received for the subject photographs, a true and correct copy of which is attached as **Exhibit 1** hereto.

7. On July 24, 2020, Defendant, through counsel, tendered an Offer of Judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure (“Rule 68 Offer”). The Rule 68 Offer represented an amount that was nearly 50 times Plaintiff’s average licensing fee for the subject photographs.

8. Plaintiff did not accept, or even respond to, the Rule 68 Offer before it expired on August 7, 2020.

Executed on August 26, 2020 in New York, New York.

/s/ Laura O’Boyle
Laura O’Boyle